

International Disability Alliance (IDA)

Member Organisations:

Disabled Peoples' International, Down Syndrome International, Inclusion International,
International Federation of Hard of Hearing People,
World Blind Union, World Federation of the Deaf,
World Federation of the DeafBlind,
World Network of Users and Survivors of Psychiatry,
Arab Organization of Disabled People, European Disability Forum,
Red Latinoamericana de Organizaciones no Gubernamentales de Personas con
Discapacidad y sus familias (RIADIS), Pacific Disability Forum

Suggestions for disability-relevant questions to be included in the List of Issues for Country report task force Human Rights Committee, 104th Session

The International Disability Alliance (IDA) has prepared the following suggestions for the list of issues, based on references to persons with disabilities to be found in the State report, and treaty body concluding observations and views (see annex).

PHILIPPINES

The Philippines ratified the Convention on the Rights of Persons with Disabilities on 15 April 2008.

State report

46. A number of other administrative agencies facilitate the implementation and enforcement of human rights. They mainly implement policies in accordance with the laws and administrative issuances. Very often, they enforce and promote the positive rights of citizens which affect their daily lives. For instance, the Department of Labor and Employment (DOLE) sees to it that the rights of workers are protected and their welfare promoted. The Department of Agrarian Reform (DAR) implements the Comprehensive Agrarian Reform Law (CARL) to promote the economic rights of farmers. With respect to the rights of Filipino children, Filipino women and persons with disabilities (PWDs), the Council for the Welfare of Children (CWC), Philippine Commission on Women (PCW) and the National Council for Disability Affairs (NCDA), respectively, have been created to coordinate the implementation and enforcement by executive departments of all laws relative to the promotion of the welfare of their respective sectors.

92. Moreover, SEC. 41, states that: (b) The regular members of the sangguniang panlalawigan (provincial board), sangguniang panlungsod (city council), and sangguniang bayan (municipal council) shall be elected by district, as may be provided for by law. (c) In addition thereto, there shall be one (1) sectoral representative from the women, one (1) from the workers, and one (1) from any of the following sectors: the urban poor, indigenous cultural communities, disabled persons, or any other sector as may be determined by the sanggunian concerned within ninety (90) days prior to the holding of the next local elections, as may be provided for by law. The Comelec shall promulgate the rules and regulations to effectively provide for the election of such sectoral representatives.

112. The Constitution provides that, "The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity,

reduce social, economic and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good (Article XIII, Section 1).”

113. Consequently, the following statutes were enacted to bolster anti-discriminatory measures, viz:

(j) RA 7277 An Act Providing for the Rehabilitation, Self-Development and Self-Reliance of Disabled Persons and their Integration into the Mainstream of Society and for Other Purposes (Magna Carta for Disabled Persons) – for persons with disabilities;

119. Both chambers of Congress have also included in their respective legislative agenda proposed laws designed to further address non-discrimination and are currently deliberating on the following proposed legislations, inter alia:

(b) HB00253 entitled, “An Act authorizing organization and cooperatives of persons with disability duly registered with the Securities and Exchange Commission and the Department of Social Welfare and Development, to operate livelihood activities, booths or facilities in Government buildings and their premises for remunerative employment, and for other purposes” – The measure provides organizations and cooperatives of persons with disability the authority to operate livelihood facilities, activities, commercial booths and other related remunerative employment opportunities in government buildings and their premises;

(l) HB01387 entitled, “An Act creating the Persons with Disabilities Affairs Office in every province, city and municipality, amending section 40 of Republic Act No. 7277, otherwise known as ‘An Act providing for the rehabilitation, self-development and self-reliance of disabled persons and their integration into the mainstream of society and for other purposes’” – To ensure that persons with disabilities enjoy the services provided under RA 7277, the bill mandates the establishment of a Persons with Disabilities Affairs Office in every province, city and municipality;

(m) HB02646 entitled, “An Act to ensure that older or disabled persons are protected from institutional, community and domestic violence and sexual assault and to improve outreach efforts and other services available to older or disabled persons victimized by such violence” – The bill directs the Department of Social Welfare and Development, in cooperation with non-governmental organizations, to formulate policies that develop, strengthen and implement programs for the prevention of abuses, including neglect and exploitation of older or disabled persons, and to provide related assistance to victims;

283. On 29 April 2008, the Philippine Legislature enacted Republic Act No. 9500 entitled, “An Act to Strengthen the University of the Philippines as the National University.” Section 9 of the said Act, i.e., on democratic access, provides that the national university shall take affirmative steps which may take the form of an alternative and equitable admissions process to enhance the access of disadvantaged students, such as indigenous peoples, poor and deserving students, including but not limited to valedictorians and salutatorians of public high schools, and students from depressed areas, to its programs and services. No student shall be denied admission to the national university by reason solely of age, gender, nationality, religious belief, economic status, ethnicity, physical disability, or political opinion or affiliation. The national university recognizes the separation of Church and State. It shall guarantee religious freedom and shall not discriminate on the basis of religion.

357. The following laws were enacted to further strengthen the Filipino family:

(f) RA 7277 An Act Providing for the Rehabilitation, Self-Development and Self-Reliance of Disabled Persons and their Integration into the Mainstream of Society and for Other Purposes (Magna Carta for Disabled Persons) – for persons with disabilities;

IDA proposed questions for the List of Issues :

- What steps are being taken to ensure that a comprehensive provision on the prohibition of discrimination is incorporated into the law, including the prohibition of disability based discrimination?
- Re para 113 of the State report on the enactment of Republic Act 7277 (Magna Carta for Persons with Disabilities) as an anti-discriminatory measure, what steps have been taken to modify or abolish discriminatory provisions of this domestic legislation and to align it with the social model of disability rights promoted in the CRPD ?

The RA 7277 was enacted in 1992 and despite amendments to some sections by Republic Act 9442 (Amendments of Magna Carta) in 2009, it retains the view of disability which defines “persons with disabilities” as “those suffering from restriction or different abilities, as a result of a mental, physical or sensory impairment, to perform an activity in the manner or within the range considered normal for a human being” (Sect. 4a), which is in conflict with the CRPD’s approach. Under RA 7277, In order to prosecute potential violations, Sec 44 on enforcement states that a “pattern or practice of discrimination” must be evident. This diminishes the significance of single or individual acts of discrimination.

- Re para 46 of the State report on the implementation and enforcement of human rights by the National Council for Disability Affairs, what specific programs and activities has the NCDA put in place which directly impact the protection and enforcement of human rights?

On the ground, the NCDA has primarily functioned as a secretariat and has not directly addressed human rights violations. The NCDA focuses largely on particular constituencies with the effect of neglecting certain groups of persons with disabilities e.g. those with low incidence of disability or chronic illness. The NCDA has opposed giving the 20% disability discount to card-bearing persons with disabilities. Nor has it been active in addressing key issues of the rights of children with disabilities, including inclusive education; access to rehabilitation services; sexual violence and abuse; and justice for children with disabilities in conflict with the law.

- In relation to paragraph 119 (l) in the State report (which is now known as Republic Act 10070), what steps or measures are taken to ensure that Republic Act 10070 (An act establishing institutional mechanism to ensure the implementation of programs and services for persons with disabilities in every province, city and municipality) will be implemented nationwide?
- What measures are in place to collect data and statistics on persons with disabilities for targeted policymaking?

There is no national disaggregated database on children with disabilities (and specific impairment constituencies) on various aspects of their human rights.)

- In the context of combating domestic violence, what steps have been taken to address the heightened risk for girls and women with disabilities of becoming victims of domestic violence and abuse? What measures are being adopted to ensure that both services (including shelters) and information for victims are made accessible to women and girls with disabilities? What steps are being taken to ensure that prompt, impartial and effective investigations are conducted, and the prosecution, and if convicted, punishment of perpetrators?
- How many cases have been lodged involving the violence or abuse of a woman or girl with disabilities and what have been the outcomes, numbers of cases leading to the prosecution and sanction of perpetrators; what have sanctions entailed in those cases, and what remedies have been offered to victims? What accessibility measures have been integrated into all the various aspects of the judicial and legal systems?

- What measures are in place to ensure that all health care and services provided to persons with disabilities, including all mental health care and services, are based on the free and informed consent of the person concerned (and cannot be substituted by third party decision-makers such as family members or guardians)?
- What laws and policies are in place to ensure that persons with disabilities enjoy legal capacity on an equal basis with others in accordance with Article 16 ICCPR and as elaborated in Article 12 CRPD?
- What measures are in place to render public services, including public administration, social services, courts, hospitals, schools, public transportation, mass media, etc, accessible to persons with disabilities?
- What steps are being taken to introduce the recognition of sign language as an official language in accordance with Article 27, ICCPR and Article 21, CRPD on freedom of expression (also Articles 24 and 30 of CRPD)? What measures are being adopted to ensure access to information to persons with disabilities on an equal basis with others?
- What steps are being taken to repeal the electoral law (Synchronised Elections Law 1991) which excludes from the right to vote “insane or incompetent persons as declared by competent authority” (section 118), which is in violation of the right to political participation as set out in Article 25, ICCPR and Article 29, CRPD¹? What measures are being adopted to ensure the accessibility of polling stations, booths and voting material, including by permitting an individual an assistant of their own choice to help them to vote, without external surveillance? How is information on elections and political campaigns being made accessible in the lead up to elections?
- In relation to paragraph 92, what are the steps or measures taken to ensure that vulnerable sectors such as persons with disabilities, indigenous people and other vulnerable groups are represented in the sangguniang panlalawigan (provincial board), sangguniang panlungsod (city council), and sangguniang bayan (municipal council)? Are persons with disabilities able to participate on an equal basis with others in the selection and governance as sectoral representatives?
- What steps are being taken to ratify the Optional Protocol to the CRPD?

ANNEX- Disability references in Concluding Observations and views with respect to the Philippines

Concluding Observations of the CRC Committee, 52nd session, 2009, CRC/C/PHL/CO/3-4

29. While noting efforts by the State party to eliminate discrimination against children, including through the implementation of the Girl Child Plan and a number of programmes targeting indigenous and minority children, the Committee reiterates its concern at discrimination faced by many children, in particular children living in poverty, children with disabilities, indigenous and minority children, including Muslim children living in Mindanao, migrant children, street children and children living in rural areas as well as children living in conflict areas, as regards their access, inter alia, to social and health services and education. The Committee also remains concerned at the de facto discrimination still affecting the girl child and impeding the full enjoyment of her rights, mainly due to societal attitudes toward girls and women. The Committee further expresses its concern at the fact that the State party has not yet addressed the situation of children born out of wedlock, who still face

¹ This is confirmed in OHCHR thematic study on participation in political and public life by persons with disabilities which explicitly states that there is no reasonable restriction nor exclusion permitted regarding the right to political participation of persons with disabilities, A/HRC/19/36, 21 December 2011.

discriminatory practices such as their classification as “illegitimate” and their restricted right to inherit.

30. The Committee urges the State party to increase its efforts to eliminate discrimination against children and in particular to:

(a) Adopt and implement a comprehensive strategy addressing all forms of discrimination, including multiple forms of discrimination against all vulnerable groups of children and aimed at combating discriminatory social attitudes towards girls, children living in poverty, children with disabilities, indigenous and minority children, including Muslim children living in Mindanao, migrant children, street children and children living in rural areas as well as children living in conflict areas;

Children with disabilities

53. While welcoming the State party’s ratification of the Convention on the Rights of Persons with Disabilities in 2008, the Committee expresses its concern at the lack of a comprehensive policy to ensure that children with disabilities have equal access to social, educational, health and other services. The Committee also remains concerned at the high prevalence of disability among Philippine children, due to a number of causes, including malnutrition and unsanitary living conditions as a result of extreme poverty. The Committee is further concerned that those children continue to face de facto discrimination and that they have an invisible role in society.

54. The Committee recommends that the State party strengthen its measures to protect and promote the rights of children with disabilities, inter alia, by:

(a) Developing and implementing a comprehensive policy for the protection and promotion of the rights of children with disabilities and enforcing existing legislation to ensure that children with disabilities have equal access to social, educational, health and other services;

(b) Strengthening the existing database and monitoring system on children with disabilities;

(c) Ensuring participation of children with disabilities and members of their families in the planning, implementation and evaluation of programmes;

(d) Making every effort to provide programmes and services for all children with disabilities, including mental disabilities, and ensure that such services receive adequate human and financial resources;

(e) Carrying out awareness campaigns to sensitize the public about the rights and special needs of children with disabilities and encourage their inclusion in society;

(f) Providing training for professional staff working with children with disabilities, such as teachers, social workers, medical, paramedical and related personnel;

(g) Taking into account article 23 of the Convention, the Committee’s general comment No. 9 (2006) the rights of children with disabilities as well as the Convention on the Rights of Persons with Disabilities.

Views of the CEDAW Committee on Communication No. 18/2008, Karen Tayag Vertido v the Philippines, adopted on 16 July 2010, CEDAW/C/46/D/18/2008

8.9 Acting under article 7, paragraph 3, of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, and in the light of all the above considerations, the Committee is of the view that the State party has failed to fulfil its obligations and has thereby violated the rights of the author under article 2 (c) and (f), and

article 5 (a) read in conjunction with article 1 of the Convention and general recommendation No. 19 of the Committee, and makes the following recommendations to the State party:

(a) Concerning the author of the communication

- Provide appropriate compensation commensurate with the gravity of the violations of her rights

(b) General

- Take effective measures to ensure that court proceedings involving rape allegations are pursued without undue delay

- Ensure that all legal procedures in cases involving crimes of rape and other sexual offenses are impartial and fair, and not affected by prejudices or stereotypical gender notions. To achieve this, a wide range of measures are needed, targeted at the legal system, to improve the judicial handling of rape cases, as well as training and education to change discriminatory attitudes towards women. Concrete measures include:

(i) Review of the definition of rape in the legislation so as to place the lack of consent at its centre;

(ii) Remove any requirement in the legislation that sexual assault be committed by force or violence, and any requirement of proof of penetration, and minimize secondary victimization of the complainant/survivor in proceedings by enacting a definition of sexual assault that either:

- requires the existence of “unequivocal and voluntary agreement” and requiring proof by the accused of steps taken to ascertain whether the complainant/survivor was consenting; or
- requires that the act take place in “coercive circumstances” and includes a broad range of coercive circumstances.”

(iii) Appropriate and regular training on the Convention on the Elimination of All Forms of Discrimination against Women, its Optional Protocol and its general recommendations, in particular general recommendation No. 19, for judges, lawyers and law enforcement personnel;

(iv) Appropriate training for judges, lawyers, law enforcement officers and medical personnel in understanding crimes of rape and other sexual offences in a gender-sensitive manner so as to avoid revictimization of women having reported rape cases and to ensure that personal mores and values do not affect decision-making.

BOSNIA AND HERZEGOVINA

Bosnia and Herzegovina ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol on 12 March 2010.

[State report](#)

Selected disability references in the state report

Recommendation No. 15

98. In the reporting period, i.e. from 2004 to 2010, amendments to the legislation which has improved the position of the victims of torture and civilian war victims, and persons with disabilities in general have been adopted. This particularly applies to camp detainees and victims of sexual abuse and rape. However, the existing legal framework has significantly extended discrimination among people who have already achieved the status of disabled persons, particularly, between disabled war veterans, civilian victims of war, disabled civilians and disabled workers, whereby the latter are placed in the worst position. An analysis of the situation, as a whole, shows that the entitlements granted on the basis of employment (to pensioners, disabled workers, etc.), pursuant to pension and disability schemes are lower than the entitlements granted on the basis of social welfare schemes (disabled war veterans, civilian victims of war, disabled civilians) in FBH.

105. Besides the adoption of the base for benefits paid to civilian victims of war in the amount equivalent to 70 per cent of the base paid to disabled war veterans, the Law on Amendments to the Law stipulates that the entitlements of civilian victims of war should be exercised in a manner and procedure provided for by law. Therefore, any application for entitlement is decided by the centre for social work as a body of first instance, while a review of the decision, i.e. the appellate proceedings, and payments to beneficiaries are conducted by the cantonal ministries responsible for social policy.

106. The exercise of entitlements is funded from the Federation budget and the cantonal budget in the amount of 50 per cent and 20 per cent respectively, of the base of disabled war veterans' benefits of the same category.

108. According to the records of the Federal Ministry of Labour and Social Policy in the FBH, 8,288 civilian victims of war were recorded in late 2005. During the implementation of the Law in 2009, 10,943 beneficiaries were recorded who received payments as follows: 4,512 received personal disability allowance; 5,709 received family disability allowance. Also, 612 individuals received a single allowance per month, which is a personal cash benefit, as a victim of sexual abuse and rape.

Legal status of victims of torture, camp detainees, victims of sexual abuse and rape

109. Article 54 (1) of the Law on Basic Social Protection, Protection of Civilian Victims of War and Families with Children provides for the status of civilian victim of war to be granted to a camp detainee, if the person has "sustained a bodily impairment of at least 60% or significant deterioration in health due to torture, inhuman and degrading treatment, unlawful punishment, unlawful detention, imprisonment, concentration camp, internment, forced labour during the war or imminent threat of war." The base for determining benefits to be paid to civilian victims of war is 70 per cent of the monthly amount of personal disability allowance paid to disabled war veterans; in 2008 this amounted to BAM 563.95.

110. Article 54 (3) defines the status of civilian victims of war by the following wording: "a special group within the group of civilian victims of war are persons who were victims to sexual assault and rape." Article 59 (2) provides for a monthly personal cash benefit for persons under Article 54 (3) of this law, amounting to 70 per cent of the base that is applied to disabled war veterans' entitlements (BAM 563.95), as a single cash benefit in 2008.

116. There are reports that due to the situation of lack of protection of data, a certain number of raped and abused women and men hide behind the entitlement to personal disability allowance granted to the first group of civilian victims of war, with 100 per cent impairment. However, it still remains the problem of non-compliance with Article 18 of the Law on Gender Equality of the BiH (BiH Official Gazette No. 16/03), because there is no classification of statistical data by gender in the legislation governing the matter of persons disabled in peacetime and civilian victims of war.

117. The current database of civilian victims of war and their families in the FBH still lacks the possibility for collecting, recording and processing of beneficiaries by sex, age, ethnic, territorial and other statutory criteria for monitoring and reporting.

121. In addition, the persons whose disabilities are found to be a result of imprisonment in a camp were granted the entitlements under the legislation regulating entitlements of war veterans, disabled war veterans and civilian victims of war, while the status of civilian victim of war and the entitlements it carries should be granted to other persons presenting evidence under Article 54 of the Law, but they cannot get financial benefits.

122. It should be noted that the adopted amendments to the Laws on Social Protection in the Federation have further increased discrimination against persons with congenital and acquired disabilities in favour of persons with disabilities as a result of war (disabled war veterans, civilian victims of war, camp detainees, etc.).

125. In the Republika Srpska, there is no specific Law regulating the status of victims of torture as a specific group. However, this group of persons may, under certain conditions, achieve the status and entitlements under the Law on the Protection of War Veterans, People with Disabilities and Civilian Victims of War. Depending on whether a person died as a soldier or a civilian, his/her entitlements may be exercised in accordance with the valid legislation of the Republika Srpska, namely the Law on the Entitlements of War Veterans, Militaries with Disabilities and Families of Soldiers Fallen in the Fatherland War of the Republika Srpska (RS Official Gazette No. 55/07 – consolidated text, 59/08 and 118/09) and Law on the Protection of Civilian Victims of War (RS Official Gazette No. 24/10). This group of persons is specified by law as equal to the other groups of persons in terms of achieving the status and entitlements.

127. Specific conditions for obtaining the status of disabled war veteran under the Law on the Entitlements of War Veterans, Militaries with Disabilities and Families of Soldiers Fallen in the Fatherland War of the Republika Srpska are bodily impairment of at least 20 per cent caused by wounds or injuries, determined by a medical board on the basis of medical records about treatment that cannot be older than one year after the termination of military service, or bodily impairment of at least 40 per cent caused by disease, determined by a medical board on the basis of medical records that can not be older than one year after discharge from the armed forces or cessation of the captivity.

129. The most important entitlements under the Law on the Entitlements of War Veterans, Militaries with Disabilities and Families of Soldiers Fallen in the Fatherland War of the Republika Srpska are granted to disabled war veterans (regardless of the circumstances when disability occurred):

- Monthly allowance (for personal disability, supplemental financial assistance, care and support, orthopaedic)
- Health care (medical costs fully covered)
- Orthopaedic aids (in accordance with health care legislation)
- Spa rehabilitation in special rehabilitation program approved by the Government
- Priority in housing allocation (disabled war veterans in I to IV groups)

Family members of killed, missing or deceased combatants receive:

- Family disability allowance
- Health care (medical costs fully covered)
- Refund of funeral costs of exhumed combatant
- Spa rehabilitation in special rehabilitation program approved by the Government
- Priority in housing allocation

- Refund of costs of building tombstone
- Allowance to family of a combatant who was awarded a medal

Entitlement to protection under the Law on the Protection of Civilian Victims of War:

- Civilian disability or family disability allowance
- Allowance for care and assistance of another person (the first group is the only group having this entitlement)
- Allowance for family members incapable of work
- Additional financial assistance
- Allowance for a single parent
- Health care
- Professional rehabilitation

Assessment of military/civilian disability based on mental illness

130. In determining the status of disabled war veteran and the status of civil victim of war, PTSD is taken into account under certain circumstances. Assessment of military/civilian disability is based on the Rulebook on Determining the Military Disability Rating (RS Official Gazette No. 31/10).

131. Cash benefits under the Law on the Entitlements of War Veterans, Militaries with Disabilities and Families of Soldiers Fallen in the Fatherland War of the RS, and the Law on Protection of Civilian Victims of War.

132. According to the Law on the Entitlements of War Veterans, Militaries with Disabilities and Families of Soldiers Fallen in the Fatherland War of the Republika Srpska, the base for the calculation of monthly benefits is established by law at BAM 500.00. This base has been used for calculations since 1 May 2008.

Data on civilian victims of war in Bosnia and Herzegovina

<i>Federation of BiH</i>	<i>Number</i>
Families of people killed	5 790
Persons with disabilities (from 60% to 100%)	5 153
Total	10 943 civilian victims of war
<i>Republika Srpska</i>	
Civilian personal disability allowance Group I	87
Civilian personal disability allowance Group II	131
Civilian personal disability allowance Group III	83
Civilian personal disability allowance Group IV	219
Civilian personal disability allowance Group V	423
Civilian personal disability allowance Group VI	822
Family disability allowance of killed civilian victims of war	1 770
Family disability allowance of deceased civilian victims of war	290
Total	3 825
<i>Brčko District</i>	
Beneficiaries of family disability allowance	160
Total	160

Source: Federal Ministry of Labour and Social Policy and the Ministry of Labour and Protection of War Veterans and People with Disabilities, Republika Srpska.

178. Having made commitments in accordance with the decision of the European Court of Human Rights, the Ministry of Justice facilitated the Memorandum of Understanding on Legal Assistance and Official Cooperation in the field of enforcement of security measures, imposed in criminal proceedings between BiH, FBH, RS and Brčko District (BiH Official Gazette No. 44/06). The Council of Ministers adopted a decision on accepting this Memorandum, which provided for the establishment of the Steering Committee for the Rehabilitation of Psychiatric Hospital in Sokolac, which will be the institution to carry out the security measures/orders imposed by any court in BiH. It also adopted the decision on the Establishment of the Implementation Unit for this project, the decision on the appointment of the Coordinator of Project Implementation, and the decision to ensure the funds for the project implementation (BiH Official Gazette Nos. 55/06 and 72/06). All administrative procedures have been completed for the implementation of the Psychiatric Hospital of the Sokolac Rehabilitation project and all conditions have been met for the execution of the contract to rehabilitate the psychiatric hospital, which will also meet all European standards.

191. Unlike the Federation of BiH, the Republika Srpska has no major problems executing security measures for mandatory psychiatric treatment and compulsory treatment of addiction. A sentenced person, on whom the verdict handed down one of these two security measures/orders, is sent by the courts to the so called Forensic Ward of the Psychiatric Hospital of Sokolac and at the end of treatment, the convicted person is sent to serve his prison sentence. Fully aware of the fact that the conditions for the execution of security measures and hospital treatment of convicted persons with mental disabilities are far from the prescribed standards (to which we were warned through Reports of CPT), the Government of the Republika Srpska adopted the Decision on the Establishment of the Special Hospital for Forensic Psychiatry in Sokolac. By signing the contract between the Entity Ministries of Justice and the Special Hospital in Sokolac, the conditions for donor funds were created and work on adaptation and rehabilitation of the existing building in Sokolac started.

200. In this regard, the following recommendations and measures were adopted that will be implemented as a matter of priority:

- In accordance with the actual and expressed needs of current occupants of collective centres, develop programs and projects that will aim at full dissolution of this kind of housing. Special attention must be paid to particularly vulnerable categories such as orphans, single mothers, the elderly, sick and disabled persons, to ensure adequate exercise of their rights

IDA proposed questions for the List of Issues :

- What steps are being taken to promote the positive image of children and adults with disabilities amongst government personnel, the public and families?
- What measures are in place to collect data and statistics on persons with disabilities for more effective and targeted policymaking?

- In the context of combating domestic violence, what steps have been taken to address the heightened risk for girls and women with disabilities of becoming victims of domestic violence and abuse? What measures are being adopted to ensure that both services (including shelters) and information for victims are made accessible to women and girls with disabilities?
- What steps are being taken to eliminate the institutionalisation of children and adults with disabilities by building up community based services and support (including through increased social assistance and welfare benefits) to children with disabilities and to their families, including foster families ?
- What measures are being adopted to ensure that all health care and services, provided to persons with disabilities, including all mental health care and services, are based on the free and informed consent of the person concerned (and cannot be substituted by third party decision-makers such as family members or guardians)?
- What measures are being taken to eliminate the use of coercion and restraint, including chemical restraint, in psychiatric facilities and other institutions? How is a trauma-informed approach* to care informing policies and practices in these institutions?
- What laws and policies are in place to ensure that persons with disabilities enjoy legal capacity on an equal basis with others in accordance with Article 16 ICCPR and as elaborated in Article 12 CRPD?
- What steps are being taken to introduce the recognition of sign language as an official language in accordance with Article 27, ICCPR and Article 21, CRPD? What measures are being adopted to ensure access to information to persons with disabilities on an equal basis with others?

* **Trauma-informed approach:** A trauma-informed approach is based on the recognition that many behaviors and responses (often seen as symptoms) expressed by people with psychosocial disabilities are directly related to traumatic experiences that often cause mental health, substance abuse, and physical concerns. For many people with psychosocial disabilities, systems of care perpetuate traumatic experiences through invasive, coercive, or forced treatment that causes or exacerbates feelings of threat, a lack of safety, violation, shame, and powerlessness. Unlike traditional mental health services, trauma-informed care recognizes trauma as a central issue. Incorporating trauma-informed values and services is key to improving program efficacy and supporting the healing process.

ANNEX- Disability references in Concluding Observations with respect to Bosnia and Herzegovina

Concluding Observations of the CAT Committee, 45th session, 2010, [CAT/C/BIH/CO/2-5](#)

Psychiatric facilities

20. While noting the progress made in psychiatric facilities, including Sokolac Psychiatric Clinic, the Committee remains concerned at issues **of institutional accommodation of mentally disabled persons**, in particular with regard to institutions overcrowding and lack of adequate psycho-social support by competent organs (art. 16).

The Committee recommends that the State party ensure that adequate psycho-social support by multi-disciplinary teams is provided for **patients in psychiatric institutions**, that **all places where mental-health patients are held for involuntary treatment** are regularly

visited by independent monitoring bodies to guarantee the proper implementation of the existing safeguards, and that alternative forms of treatment are developed. Furthermore, the State party should ensure the fully and timely implementation of the recommendations made by the Ombudsman, as contained in its special report on the situation in the institutions for accommodation of **mentally disabled persons**.

Training

22. While welcoming the detailed information provided by the State party on training programmes for law enforcement officials and the judiciary, the Committee remains concerned at the lack of standardized capacity at the state level for training of all public officer and at the insufficient information on monitoring and evaluation of the effectiveness of these programmes in preventing and detecting torture and ill-treatment (arts.10 and 16).

The Committee recommends that the State party:

- a) Ensure that trainings on the Istanbul Protocol (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) are provided to medical personnel and others involved in persons deprived of liberty on a regular and systematic basis and that it is translated into all appropriate languages and applied as widely as possible;
- b) Develop and implement a methodology to assess the effectiveness and impact of such educational and training programmes on the reduction of cases of torture and ill-treatment and regularly evaluate the training provided to its law enforcement officials;
- c) Strengthen its efforts to implement a gender sensitive approach for the training of those involved in the custody, interrogation or treatment of women subjected to any form of arrest, detention or imprisonment; and
- d) Strengthen professional training in both social-protection institutions for **persons with mental disability** and in psychiatric clinics.

PARAGUAY

Paraguay ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol on 3 September 2008.

[State report](#)

Selected disability references in the state report:

29. To address issues relating to indigenous law and human rights and the rights of female workers nationwide, public hearings have been held at the jurisdictional and administrative levels. In-house workshops and courses have also been organized on the following subjects: the criminalization of the use of children and adolescents in pornography; domestic violence and gender; the prevention of human trafficking and forced labour from a human rights perspective; access to justice and women's rights; and mental health and human rights. An international seminar was also held on women's rights and the justice system.

33. In light of the approval of the Brasilia Rules, provisions have been introduced to regulate judicial practice with regard to persons in vulnerable situations, with such situations being

defined as those associated with age, disability, membership in an indigenous community, gender and victimization, among other factors. The aim is to broaden coverage and remove obstacles to justice so as to ensure effective access without discrimination.

41. Policy planning at the Ministry of Public Health and Social Welfare is results oriented and implemented through high-priority programmes, such as the Expanded Immunization Programme, the Programme to Prevent Mental Retardation, the Programme to Prevent Non-Transmissible Diseases, the National HIV/AIDS Programme, the National Programme on Sexual and Reproductive Health, and the Maternal and Neonatal Mortality Monitoring Programme.

104. These actions also facilitated internal restructuring and human resource optimization efforts, as well as contributing to the plans of the Ministry of Justice and Labour to reduce overcrowding and to build a prison hospital, which is to include a psychiatric ward.

IDA proposed questions for the List of Issues :

- What steps are being taken to ensure that a comprehensive provision on the prohibition of discrimination is incorporated into the law, including the prohibition of disability based discrimination?
- In the context of combating domestic violence, what steps have been taken to address the heightened risk for girls and women with disabilities of becoming victims of domestic violence and abuse? What measures are being adopted to ensure that both services (including shelters) and information for victims are made accessible to women and girls with disabilities?
- What measures are in place to ensure that all health care and services provided to persons with disabilities, including all mental health care and services, are based on the free and informed consent of the person concerned (and cannot be substituted by third party decision-makers such as family members or guardians)?
- What laws and policies are in place to ensure that persons with disabilities enjoy legal capacity on an equal basis with others in accordance with Article 16 ICCPR and as elaborated in Article 12 CRPD?
- What measures are in place to render public services, including public administration, social services, courts, hospitals, schools, etc, accessible to persons with disabilities?
- What steps are being taken to establish an independent body to monitor hospitals and places of detention which would monitor the status of patients/residents, the training of personnel, and the protocols in place (including their observance) for recording of all incidents of violence, use of restraints (both physical and chemical methods), and complaints in psychiatric hospitals and social welfare institutions?
- What steps are being taken to adopt a plan with target dates and monitoring to close down institutions for children and adults with disabilities and realize the right of persons with disabilities to live in the community by ensuring that housing is affordable and accessible for persons with disabilities, that they have the legal right to choose where and with whom to live on an equal basis with others, and by making available support services to realize the will and preference of individuals as to how they wish to live?
- Are there any requirements for the training of law enforcement, judicial and health professionals (Prosecutor's office, police, investigating officials, judges, legal aid lawyers, hospital and institution staff) on the human rights, dignity, autonomy and needs of persons with disabilities?
- What steps are being taken to introduce the recognition of sign language as an official language in accordance with Article 27, ICCPR and Article 21, CRPD? What measures

are being adopted to ensure access to information to persons with disabilities on an equal basis with others?

- What steps are being taken to repeal Articles 91 and 149 of the Electoral Code which exclude from the right to vote respectively persons who are deaf and cannot make themselves understood in writing or by other means; and persons declared not rehabilitated or deprived of their legal capacity, which is in violation of the right to political participation as set out in Article 25, ICCPR and Article 29, CRPD²? What measures are being adopted to ensure the accessibility of polling stations, booths and voting material, including by permitting an individual an assistant of their own choice to help them to vote, without external surveillance? How is information on elections and political campaigns being made accessible in the lead up to elections?

ANNEX – relevant recommendations made by other treaty bodies on Paraguay:

[Concluding Observations](#) (report available in Spanish) of the Committee against Torture, November 2011

4. El Comité observa con satisfacción que, desde el examen del tercer informe periódico del Estado parte, éste ha ratificado o se ha adherido a los siguientes instrumentos internacionales:

i) Convención sobre los derechos de las personas con discapacidad y su protocolo facultativo (3 de septiembre de 2008);

Condiciones de detención y uso de la prisión preventiva

19. Al Comité le preocupa el uso habitual y extendido de la prisión preventiva que puede lesionar el derecho a la presunción de inocencia, en detrimento de medidas no privativas de la libertad. Al Comité le preocupa también la falta de respeto al plazo máximo legal para la prisión preventiva y la existencia de legislación en el Estado parte que restringe la posibilidad del recurso a medidas sustitutivas a la prisión preventiva. Al Comité le preocupa especialmente el uso extendido de la prisión preventiva para niños de entre 16 y 18 años de edad. El Comité está preocupado por la abundante información recibida de diversas fuentes sobre condiciones materiales deplorables en muchas de las comisarías y centros penitenciarios del Estado parte, la sobrepoblación y hacinamiento en los mismos, el servicio médico insuficiente y la falta casi total de actividades para las personas privadas de libertad. En particular, el Comité expresa su preocupación sobre las condiciones materiales del pabellón psiquiátrico de la penitenciaría nacional de Tacumbú, y por la falta de atención médica especializada a las personas allí alojadas. Además, el Comité está preocupado por alegaciones de discriminación contra la comunidad lesbiana, gay, bisexual y transgénero (LGBT) en centros penitenciarios del Estado parte, incluida la discriminación en el acceso a visitas íntimas. Por último, el Comité está preocupado por el uso arbitrario del aislamiento como castigo en las prisiones del Estado parte (arts. 2, 11 y 16).

El Estado parte debería adoptar medidas eficaces para garantizar que su política de prisión preventiva está de acuerdo con los estándares internacionales y que la prisión preventiva sólo se utiliza como medida de último recurso durante un período limitado, de conformidad con los requisitos establecidos en su legislación. Con este fin, el Estado parte debería reconsiderar el recurso a la prisión preventiva como primera medida en el caso de los acusados en espera de juicio y examinar la posibilidad de aplicar medidas sustitutivas a la privación de libertad, tal como se describe en las Reglas mínimas de las Naciones Unidas

² This is confirmed in OHCHR thematic study on participation in political and public life by persons with disabilities which explicitly states that there is no reasonable restriction nor exclusion permitted regarding the right to political participation of persons with disabilities, A/HRC/19/36, 21 December 2011.

sobre las medidas no privativas de la libertad (Reglas de Tokio), aprobadas por la Asamblea General en su resolución 45/110, en particular en el caso de los menores de edad. También debería aumentar el control judicial de la duración de la prisión preventiva.

El Estado parte debería adoptar medidas urgentes para que las condiciones de detención en las comisarías, las prisiones y otros centros de detención estén en consonancia con las Reglas mínimas para el tratamiento de los reclusos, aprobadas por el Consejo Económico y Social en sus resoluciones 663 C (XXIV) y 2076 (LXII) . En particular, el Comité recomienda al Estado parte que:

- a) Adopte un plan de mejoras de la infraestructura de comisarías y cárceles del país a fin de garantizar condiciones de vida dignas a las personas privadas de libertad;
- b) Se garantice un número suficiente de profesionales médicos, incluidos profesionales de la salud mental, a fin de asegurar una atención médica de calidad a las personas privadas de libertad;
- c) Proporcione un alojamiento y tratamiento psiquiátrico adecuado a las personas privadas de libertad que requieran supervisión y tratamiento psiquiátrico;
- d) Redoble esfuerzos para combatir la discriminación contra grupos vulnerables, en particular la comunidad LGBT;
- e) Utilice el aislamiento como medida de último recurso, por el menor tiempo posible, bajo una supervisión estricta y con la posibilidad de control judicial.

[SPT report on Paraguay](#), visit in March 2009

180. The SPT has been informed of plans to establish a health promotion system at Tacumbú National Prison under the supervision of prisoners trained for that purpose. The SPT requests information on any progress made with the establishment of this system and in particular on the control of infectious diseases such as HIV/AIDS and tuberculosis.

181. The SPT visited the wing for mentally disabled inmates in Tacumbú National Prison, which was found to be acceptably clean. Nevertheless, it noticed that certain beds and the roof of the wing were in need of repair and that no activities whatsoever were organized for patients. In the course of discussions, the prison director referred to the problem posed by the lack of clear legal provisions regarding the treatment of mentally disabled persons in conflict with the law, which had on several occasions resulted in the transfer of inmates to the neuropsychiatric hospital and then back to Tacumbú. He also said that the facility did not have the skilled specialists and appropriate medication to care for inmates of this kind.

184. The solitary confinement cells at Tacumbú National Prison were in a particularly bad state. There were three cells that were approximately 2.5 m² by 2.5 m², one of which had up to five prisoners crammed into it. None of the bathrooms were working properly, and two of them leaked incessantly. The prisoners said that there were rats in them. The stench along with poor ventilation and the heat in the cells made it difficult to breathe. The SPT interviewed the 11 prisoners who were being held in the solitary confinement wing on various grounds, including clashes with other prisoners, disobeying the orders of prison staff, attempted escape and possession of knives or drugs. One of the prisoners had been in solitary confinement for almost three months, yet the prison regulations and the Prisons Act (No. 210/1970) establish the maximum period of solitary confinement as 30 days. All the prisoners interviewed confirmed that prison staff demanded payment of a large sum of money as a condition for leaving the solitary confinement wing. The medical officer should visit prisoners

held in solitary confinement every day, on the understanding that such visits should be in the interests of the prisoners' health. Furthermore, prisoners held in solitary confinement for more than 12 hours should have access to fresh air for at least 1hr each day.

186. Following discussion with the SPT, the Director of Tacumbú National Prison decided, on the spot, to return 8 of the 11 prisoners who had been placed in the solitary confinement wing for minor offences to the ordinary prison regime, and to transfer the remaining 3 prisoners to better cells. The Director also provided the SPT with a copy of plans for new solitary confinement cells, whose construction he said would begin shortly. The SPT discovered through information in the public domain that the solitary confinement cells in the Alcatraz wing had been closed down permanently a week after the SPT visit. The SPT welcomes the closure of this wing and would like to receive confirmation from the State party of the definitive closure of the wing as well as information on the progress of the works and the estimated date of opening of the new solitary confinement cells.

219. The SPT visited the neuropsychiatric hospital in Asunción in order to assess the material conditions there. The SPT interviewed the hospital director, who was cooperative and willing to provide information at all times. The hospital was divided into two sections (one for men and one for women) separated by a fence. Men were not allowed into the women's section, and hospital staff were in charge of enforcing that rule. In both sections, patients had access to gardens, which were reasonably well maintained. In 2008, there was no surveillance of the hospital perimeter, and outsiders managed to get into the hospital, where they abused some of the women patients. There is now police surveillance of the hospital perimeter in order to prevent the entry of unauthorized persons. There are plans to install alarms and to hire private guards in order to guarantee perimeter security.

220. In 2007 and 2008 there were incidents of sexual violence between patients, and of inappropriate use of force by hospital staff. According to information given to the SPT, these cases were referred to the Office of the Ombudsman and to an NGO. Since 2008 there have been no reports of sexual violence against patients.

221. The SPT visited all wards, which housed between 10 and 12 patients, and observed that the dormitories were plain, but reasonably clean, with ventilation and natural light. All patients had a bed and a mattress. Patients were assigned to a particular ward on the basis of objective medical criteria. The toilet facilities were clean and in working order. Only those patients with more serious problems were placed in special areas, separate from the rest. Violent patients could be transferred to solitary confinement cells for periods lasting from hours to days while they received medical treatment. Solitary confinement cells had no furniture, only mattresses. They also had a shower and bath. They were properly ventilated, but had very little natural light. A nurse was available 24 hours a day to attend to persons in these cells.

222. The atmosphere in the wards was relaxed. At the time of the visit, there were apparently no patients subject to constraining measures. Medical treatment was free and there were follow-up programmes for patients discharged from the facility. Some patients who had been at the institution for a long time and had no family to support them lived together in groups of 10. These patients were taught to cook and attend to certain basic needs. After a while, these patients were given the opportunity to live in a community where they continued to receive medical supervision.

223. Although the SPT noted the availability of painting and drawing classes in certain wards, the institution's main problem appeared to be the lack of activities for patients. Just 10 to 15 per cent of patients took part in recreational therapy. The SPT found that the overwhelming majority of patients had little or no privacy, and no place to keep their personal effects. The SPT had heard serious allegations regarding the situation in this establishment. From what it was able to observe directly, the SPT concluded that there had been a significant improvement in conditions in recent times.

224. The SPT recommends that patients are given greater opportunity to take part in rehabilitation activities. The SPT also recommends that all patients are given lockers in which to store their personal effects.

292. The SPT recommends that Paraguay should adopt legislation guaranteeing the rights of mentally disabled patients deprived of their liberty and/or under treatment against their will. The SPT further recommends that mentally disabled persons deprived of their liberty should be transferred as soon as possible to specialized institutions under medical management.

293. The SPT recommends that the furniture and roof of the wing for the mentally disabled in Tacumbú National Prison should be repaired and that programmes of activities should be organized for those patients who are able and willing to participate.

294. The SPT notes that solitary confinement should only be ordered on the basis of a medical certificate testifying, following proper examination of the detainee, that he or she is able to bear this punishment. In addition, the medical officer should visit prisoners held in solitary confinement every day, on the understanding that such visits should be in the interests of the prisoners' health. Furthermore, prisoners held in solitary confinement for more than 12 hours should have access to fresh air for at least 1 hour each day.

295. The SPT points out that prolonged solitary confinement may amount to an act of torture and other cruel, inhuman or degrading treatment or punishment and recommends that the State party should severely restrict the use of solitary confinement as punishment for persons deprived of their liberty. Solitary confinement should not be used in the case of minors or the mentally disabled.

PORTUGAL

Portugal ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol on 23 September 2009.

[State report](#)

Selected disability references in the state report:

4. European Union (EU) Directives related to equality and non discrimination have been transposed into the Portuguese legal system, inter alia by the Labour Code adopted in 2003 and by Acts 35/2004, of 29-7, and 18/2004, of 11-5 (Race Directive). Both direct and indirect discrimination on such grounds as descent, age, sex, sexual orientation, civil status, family situation, genetic heritage, reduced capacity for work, disability, chronic disease, nationality, ethnic origin, religion, political or ideological convictions and trade union membership, as well as homeland, language, race, education, economic situation, origin or social status, is prohibited. Equality and non discrimination in public employment were also guaranteed by

article 5 of Act 99/2003, of 27-8, and are now covered by Act 59/2008, of 11-9. The latter (Legal Framework of Public Employment Labour Contract) put on an equal footing the treatment of such matters in the public and private sectors. Discrimination based on disability and on the existence of an aggravated health risk is punished by Act 46/2006, of 28-8.

14. The National Rehabilitation Institute was created in 2007 with the mission to ensure the planning, implementation and co-ordination of national policies with the view to promote the rights of persons with disabilities. For more information on other mechanisms involved in the fight against discrimination, see Parts II and III of the ECCD submitted by Portugal.

16. The Ombudsman acts upon complaints received or by its own initiative. It can request the Constitutional Court to verify compliance with the Constitution of any norm adopted or failure to act on the part of public authorities. The Ombudsman has the power to undertake, with or without notice, inspection visits to any sector of public administration (whether central, regional or local), namely public services and civil or military detention facilities, as well as to any entities subject to the control of public authorities, and to request any information or documents he deems appropriate. The Ombudsman can also undertake any other investigation or inquiry, as he considers necessary, and develops information and awareness-raising activities. In 2004, the Ombudsman has established a Project Unit on the rights of children, the elderly, persons with disability and women, within which two toll-free telephone hotlines operated: Child Messages (created in 1993 to receive complaints relating to children who might be at risk or in danger) and Elderly Citizens Hotline (created in 1999 to receive complaints against violations of the rights of the elderly and to provide information about those rights in such areas as health, social security, housing, facilities and services, and leisure). On 16 July 2009, both these hotlines were temporarily suspended, due to administrative reasons. In the last trimester of the year, the Ombudsman approved a reorganization plan pursuant to which a new Department on Children, Elderly Persons and Persons with Disabilities (N-CID) was put in place, under the direct supervision of one of the two Deputy Ombudspersons. The Project Unit was thus replaced. The two toll-free hotlines Child Messages and Elderly Citizens were included in the N-CID and their operation was resumed on 1 November of 2009. The main goal of the N-CID is to concentrate the various activities of the Ombudsman in relation to children, elderly persons and persons with disabilities, and to add to the more traditional complaints-based work a regular program of initiatives of promotion, awareness-raising, human rights education and cooperation with other public and private entities, both at national and international level.

17. As regards the activity of the Ombudsman's toll-free hotlines, we note that there was a decrease in the number of calls received by Child Messages between 2002 (about 3,000) and 2008 (883). The Elderly Citizens Hotline has been consistently receiving more than 3000 calls a year since 2002. With regard to the number of complaints received by the former Project Unit, it increased from 20 in 2004 to 106 in 2008 (after a peak of 168 in 2007), which represented 1.8% of all complaints received by the Ombudsman (in 2008). In 2008, 38% of these complaints pertained to persons with disability (mostly on the education system, in particular as it concerns special education needs, and physical barriers), 35% to children (especially on physical and mental abuse, and on adoption), 25% to elderly persons (mostly on social facilities and abuse) and 2% to women.

65. The new Act on General Bases of the Welfare System establishes the principles of equality and non discrimination on the grounds of, inter alia, sex, as one of the main guidelines for the whole social security system. It also requires the creation of special conditions for the promotion of births by favouring a balance between private, family and working life and particularly taking into account the necessary time to care for children. The Social Security system (comprising contributory and non contributory schemes) covers sickness, maternity, occupational illnesses, unemployment, family responsibilities, disability, old age and death, but the range of protection varies from scheme to scheme. Data from 2004 to 2007 show that women represent about 57% of all the beneficiaries by the social security schemes under the non-contributory system, and about 46% under the contributory system, highlighting their particular vulnerability to poverty (see Chart 9 in the annexes).

67. According to data for 2004–2007, women represent about 53.5% of all beneficiaries of this income (see Chart 10 in the annexes). In 2004, 36% of the families receiving “Guaranteed Minimum Income” were either women alone or women supporting children (see Chart 11 in the annexes). In 2006 and 2007, there was a significant increase in mixed families among the beneficiaries – see Chart 12 in the annexes. The “Social Insertion Income” provides for special benefits for the families of the physically or mentally disabled or people with chronic diseases or highly dependent elderly people. The amounts of these benefits are defined in Ministerial Order 105/2004, of 26-1.

128. A working group has been established to elaborate formal regulations concerning conditions of detention at the Judiciary Police and court premises, drawn upon regulations in force for PSP and GNR and encompassing recommendations formulated by the European Committee for the Prevention of Torture. A study carried out together with the National Laboratory for Civil Engineering (LNEC) issued Technical Recommendations for the police forces’ facilities (RTIF) that shall be taken into account in 2009, in line with the Law on the Program establishing the facilities and equipment of the police forces. This “XXI Century police station” model pursues objectives such as to improve, modernize and humanise police facilities, and guarantee the access thereto of persons with disabilities.

224. The sixth revision of the CRP (2004) expressly laid down that it is up to the State to promote a balance between work and family life through coordination of different sectoral policies. In 2006, two Programmes were launched in order to increase the availability of care infrastructures: the Expansion Programme of the Social Equipment Network (PARES), aiming at supporting the enlargement, development and consolidation of the equipments and social facilities network for children, elderly and people with disabilities; and the Support Programme to Investment in Social Equipments (PAIES) aiming at stimulating investment in social equipments by supporting private initiative.

239. With the aim of improving equality of opportunity in the education system, guidelines were developed for Portuguese as a Non-Mother Tongue in the third cycle of basic education and for Portuguese as a Foreign Language in secondary education, both aiming at the new pupils from migratory flows and other specific public schools. Along the same policy lines, a new legal framework for providing special care for children and young people with special educational needs was adopted, as well as measures aimed at pupils who are blind, partially sighted, deaf or suffering from multiple handicaps.

IDA proposed questions for the List of Issues :

- What steps are being taken to promote the positive image of children and adults with disabilities amongst government personnel, the public and families?
- What measures are in place to collect data and statistics on persons with disabilities for targeted policymaking?
- In the context of combating domestic violence, what steps have been taken to address the heightened risk for girls and women with disabilities of becoming victims of domestic violence and abuse? What measures are being adopted to ensure that both services (including shelters) and information for victims are made accessible to women and girls with disabilities?
- What measures are in place to ensure that all health care and services provided to persons with disabilities, including all mental health care and services, are based on the free and informed consent of the person concerned (and cannot be substituted by third party decision-makers such as family members or guardians)?
- What laws and policies are in place to ensure that persons with disabilities enjoy legal capacity on an equal basis with others in accordance with Article 16 ICCPR and as elaborated in Article 12 CRPD?
- What steps are being taken to introduce the recognition of sign language as an official language in accordance with Article 27, ICCPR and Article 21, CRPD? What measures are being adopted to ensure access to information to persons with disabilities on an equal basis with others?
- What steps are being taken to repeal Article 2 of the Electoral Law of the Assembly of the Republic which excludes from the right to vote persons who do not enjoy electoral capacity and those known as mentally ill, even if not judicially, when admitted to a psychiatric institution, which is in violation of the right to political participation as set out in Article 25, ICCPR and Article 29, CRPD³? What measures are being adopted to ensure the accessibility of polling stations, booths and voting material, including by permitting an individual an assistant of their own choice to help them to vote, without external surveillance? How is information on elections and political campaigns being made accessible in the lead up to elections?

TURKEY

Turkey ratified the Convention on the Rights of Persons with Disabilities on 28 September 2009.

[State report](#)

Selected disability references in the state report:

18. In September 2010, with the amendment to article 10 of the Constitution entitled “Equality Before the Law”, positive discrimination gained a constitutional basis for women and men who require social protection, such children, the elderly and the disabled. The inclusion of positive discrimination in the Constitution is a significant improvement to

³ This is confirmed in OHCHR thematic study on participation in political and public life by persons with disabilities which explicitly states that there is no reasonable restriction nor exclusion permitted regarding the right to political participation of persons with disabilities, A/HRC/19/36, 21 December 2011.

strengthen the protection of constitutional rights. With this amendment, it is guaranteed under the constitutional framework that special measures to be taken by the administration in respect of those who require protection shall not be construed to be “contrary to the principle of equality”. As such, the State will be free to take special measures for those in need of protection to ensure equality among all sectors of the society.

19. The principle of equality is enshrined in various other laws regulating specific areas of political, social and economic life. There are specific laws such as the Civil Code (Article 8 – principle of equality in capacity of persons as subject to rights), the Law on Social Services and Child Protection (Article 4 – non-discrimination in eligibility to receive social benefits), the Political Parties Law (Article 82 – prohibition of racism, Article 83 – protection of the principle of equality), the Basic Law on National Education (Article 4 – principle of equality in education, Article 8 – gender equality-affirmative action), the Labour Law (Article 5 – principle of non-discrimination, equal treatment), the Law on Disabled People (Article 4 – non-discrimination against people with disabilities).

278. Within the framework of recent constitutional amendments, positive discrimination has been granted as a constitutional right for persons who require social protection, such as children, the elderly and the disabled, as well as women in order to achieve de facto equality between men and women.

IDA proposed questions for the List of Issues :

- What steps are being taken to promote the positive image of children and adults with disabilities amongst government personnel, the public and families?
- What measures are in place to collect data and statistics on persons with disabilities for targeted policymaking?
- In the context of combating domestic violence, what steps have been taken to address the heightened risk for girls and women with disabilities of becoming victims of domestic violence and abuse? What measures are being adopted to ensure that both services (including shelters) and information for victims are made accessible to women and girls with disabilities?
- What steps are being taken to eliminate the institutionalisation of children and adults with disabilities by building up community based services and support (including through increased social assistance and welfare benefits) to children with disabilities and to their families, including foster families ?
- What laws and policies are in place to ensure that persons with disabilities enjoy legal capacity on an equal basis with others in accordance with Article 16 ICCPR and as elaborated in Article 12 CRPD?
- What steps are being taken to repeal Article 76 of the Constitution and Article 11 of the Parliamentary Elections Law which exclude people who have been deprived of their legal capacity from standing for election and being elected which is in violation of the right to political participation as set out in Article 25, ICCPR and Article 29, CRPD⁴? What measures are being adopted to ensure the accessibility of polling stations, booths and voting material, including by permitting an individual an assistant of their own choice to help them to vote, without external surveillance? How is information on elections and political campaigns being made accessible in the lead up to elections?

⁴ This is confirmed in OHCHR thematic study on participation in political and public life by persons with disabilities which explicitly states that there is no reasonable restriction nor exclusion permitted regarding the right to political participation of persons with disabilities, A/HRC/19/36, 21 December 2011.

- What steps are being taken to introduce the recognition of sign language as an official language in accordance with Article 27, ICCPR and Article 21, CRPD? What measures are being adopted to ensure access to information to persons with disabilities on an equal basis with others?
- What steps are being taken to ratify the Optional Protocol to the CRPD?

ANNEX- Disability references in Concluding Observations with respect to Turkey

Concluding Observations of the CEDAW Committee, 46th session, 2010, CEDAW/C/TUR/CO/6

38. The Committee is concerned about the situation of various disadvantaged groups of women, including Kurdish women and women of ethnic and minority communities, migrant women and women asylum-seekers, elderly women, as well as women with disabilities, who may be more vulnerable to poverty and violence and are at risk of multiple forms of discrimination with respect to education, health, employment and social and political participation. The Committee notes the lack of comprehensive data and information on the situation of such women, in particular the lack of information and data provided by the State party on women with disabilities, disaggregated by age and type of disability, in both rural and urban areas. The Committee also notes that Kurdish women continue to be in a vulnerable and marginalized situation with unofficial data indicating high illiteracy and low education rates.

39. The Committee calls upon the State party to take effective measures to eliminate discrimination against women of ethnic and minority communities, migrant women and women asylum-seekers, elderly women, as well as women with disabilities, both in society at large and within their communities, particularly in the areas of education, health, employment and political and public life. It also calls upon the State party to be proactive in its measures, including through the development of targeted programmes and strategies, to increase women's awareness of and access to education, health and social services, training and employment, as well as to familiarize them with their rights to gender equality and non-discrimination. The Committee requests the State party to collect data and conduct regular and comprehensive studies on the situation of various disadvantaged groups of women, and to provide such information and statistical data in its next report. The Committee also requests the State party to include in its next report comprehensive information on the situation of Kurdish women and girls, including data on their educational opportunities and achievements, access to employment and health-care services and participation in public life and decision-making.